

FISH & RICHARDSON P.C.

Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951

February 20, 2007

REDACTED VERSION

The Honorable Sue L. Robinson
United States District Court
for the District of Delaware
844 King Street
Wilmington, DE 19801

Re: *Callaway Golf Company v. Acushnet Company*
USDC-D. Del. - C.A. No. 06-91-SLR

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Dear Chief Judge Robinson:

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ATLANTA
AUSTIN
BOSTON
DALLAS
DELAWARE
NEW YORK
SAN DIEGO
SILICON VALLEY
TWIN CITIES
WASHINGTON, DC

Callaway Golf has now located the formal opinion of counsel relating to the Sullivan '831 patent, which was discussed with Your Honor during the February 8 hearing regarding the disqualification of Dr. Felker. As you may recall, Callaway Golf provided the Court at that hearing with an *in camera* copy of patent counsel's prior work product memorandum regarding the '831 patent, which had been shared with Dr. Felker at the April 27, 1999 meeting and which related to both the validity and infringement of the '831 patent.

As the Court will see from the enclosed *in camera* copy of the later, formal '831 opinion letter, that opinion ultimately relied on noninfringement only. However, the prior art analyzed and relied on in counsel's prior memorandum was again discussed in detail on pages 11-14 of the formal opinion, and the infringement analysis turned on a claim construction issue (discussed at pages 24-26 of the opinion) that Callaway Golf expects will be an important issue in this case as well.

Lastly, in accord with the Court's directive at the hearing on February 8, 2007, Callaway contacted Acushnet regarding a date for deposition of Dr. Felker. Callaway is awaiting Acushnet's response as to how and when it would like to proceed.

Respectfully,

/s/ Thomas L. Halkowski

Thomas L. Halkowski

TLH/jrm

Enclosure (*in camera* to Judge Robinson only)

cc Richard L. Horwitz, Esq. (via email and by hand) w/o encl.
Brian Rosenthal, Esq. (via email) w/o encl.

ATTACHMENT WAS
SEALED FOR *IN CAMERA*
REVIEW BY JUDGE
ROBINSON